Adoption Information
Increasing Open Adoption in Nova Scotia
Report of the Advisory Committee to the Minister regarding Bill 17

Fundamental Principles

Sealing adoption records is a recent although not universal development in the history of adoption. However, research and experience have demonstrated that it is not a helpful practice and in fact may be detrimental to the parties involved in adoption. Openness appears to be the best practice, and the sealing of adoption records should end.

Adoption is a lifelong process in which the parties may require assistance at any stage. This assistance may include services to locate a birth relative, services to assist in meeting a birth relative, and counseling to address problems related to adoption. These services should be publicly funded and available to all persons involved in the adopting triad.

Nova Scotia Situation

Nova Scotia's Legislative scheme is based on the principle of sealed adoption, with openness and disclosure available only by exception and with the consent of the parties involved. Currently, these exceptions must be mediated through officials of the Department of Community Services.

Despite the thrust of the legislation, the practice of open adoption is becoming more and more common in the province.

The population of children available for adoption has shifted from infants relinquished by birth mothers to permanent wards found in need of protective services.

Past practice has left a wide variety of understandings and expectations among adoptees, birth parents, adoptive parents. While for many disclosure is not of great concern, others are seeking but cannot obtain information about another party. Still others are opposed to the release of identifying information about themselves and rely on the current seal to protect their anonymity.

The current Adoption Disclosure Register has a high success rate at locating the party sought. In approximately 80% of the cases the party sought agrees to contact and 20% decline contact.

Recommendations

1. The Committee unanimously recommends that the Children and Family Services Act should be amended to end the sealing of adoption records for adoptions granted after the date of the amendment, and to substitute the following provisions.

While the adoptee is a minor, the decision to share identifying information would rest with the adoptive parents and the birth parents.

When a permanent ward is placed for adoption, an agency may apply to the court for an order prohibiting a birth parent from obtaining identifying information about their birth child (minor or adult) if this would pose a very serious danger to the child. Even if such an order were made, the adult adopted child would still have access to identifying information about the birth parent.

2. The Committee unanimously recommends that The Department of Community Services retain responsibility for providing search, reunification, and counseling services too all persons involved in adoption and for the release of identifying information by the province in all circumstances where it is required or permitted.

The Committee further recommends that such services be funded to the level of demand.

3. The Committee unanimously recommends that the regime chosen for disclosure of identifying information for adoptions made prior to the amendment ending the sealing of records should show consideration for persons who might not wish disclosure or contact.

Committee members put forward a variety of proposals for implementing this recommendation, but were unable to reach consensus. These are listed for consideration.

- Maintain the current Adoption Disclosure Act with an amendment prohibiting a waiting list for requests for identifying information or contact.

- Apply the provisions of Bill 17 to adoptions made between 1974 and the amendment ending sealed records, and the provisions of the Adoption Disclosure Act to adoptions made prior to 1984. The rationale is that after 1984, disclosure and non-disclosure were addressed with birth parents and their wishes were recorded. These records would be treated as disclosure vetoes under Bill 17.

- Require the release of identifying information but only after that party has been notified of the request.

4. None of the committee members fully supported Bill 17 in its entirety.

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